

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
POWER UP LENDING GROUP, LTD.

Plaintiff,

-against-

FBEC WORLDWIDE INC,

Defendant.
-----X

Civil Action No.: cv-17-5749
(LDW) (ARL)

REPLY TO
COUNTERCLAIMS

Plaintiff, Power Up Lending Group, Ltd., by its attorneys, Naidich Wurman LLP, as and for its reply to the defendant's Answer & Counterclaims, respectfully shows and alleges as follows:

1. Denies the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 24, 25, 26, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62 of the Answer & Counterclaims.

2. Denies information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 16, 18, 19, 20, 21, 22 and 23 of the Answer & Counterclaims.

3. Denies each and every other allegation contained in the Answer & Counterclaims not otherwise specifically denied herein above.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 3 of this Reply with the same force and effect as if set forth at length.

5. That the Counterclaims fail to state a cause of action for which relief may be granted.

6. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

7. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 6 of this Reply with the same force and effect as if set forth at length.

8. That the relief sought in the Counterclaims is barred by the doctrine of waiver.

9. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 9 of this Reply with the same force and effect as if set forth at length.

11. That the relief sought in the Counterclaims is barred by the doctrine of estoppel.

12. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

13. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 12 of this Reply with the same force and effect as if set forth at length.

14. That the relief sought in the Counterclaims is barred by the doctrine of laches.

15. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

16. That by reason of the foregoing, the Counterclaims should be dismissed.

17. That the relief sought in the Counterclaims is barred by the doctrine of unclean hands.

18. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

19. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 18 of this Reply with the same force and effect as if set forth at length.

20. That the relief sought in the Counterclaims is barred by the doctrine of payment.

21. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

22. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 21 of this Reply with the same force and effect as if set forth at length.

23. That the Counterclaims do not meet the pleading requirements of FRCP Rule 8 or FRCP Rule 9 and specifically Rule 9 (b).

24. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

25. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 24 of this Reply with the same force and effect as if set forth at length.

26. That a defense to the Counterclaims is established by documentary evidence.

27. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 27 of this Reply with the same force and effect as if set forth at length.

29. That an out of state entity may not avail itself of General Business Law Section 349 which applies only to commercial transactions not business transactions in any event.

30. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

31. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 30 of this Reply with the same force and effect as if set forth at length.

32. That the relief sought in the Counterclaims is barred by the doctrine of election of remedies.

33. That by reason of the foregoing, the Counterclaims should be dismissed.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

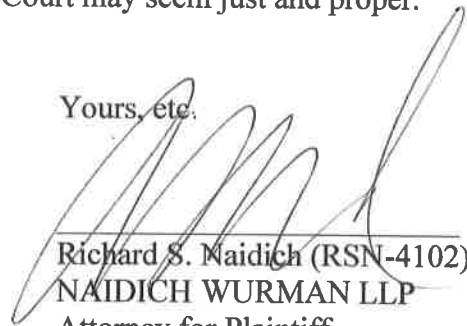
34. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 30 of this Reply with the same force and effect as if set forth at length.

35. That the defendant does not have standing to maintain the within Counterclaims.

36. That by reason of the foregoing, the Counterclaims should be dismissed.

WHEREFORE, plaintiff demands judgment dismissing the Counterclaims in their entirety, and awarding plaintiff the relief sought in the Complaint together with the costs and disbursements of this action and such other and further relief as to the Court may seem just and proper.

Yours, etc.



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